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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,904	02/25/2002	Hassan Awad	AWA	9400
7590	12/23/2004		EXAMINER	
Thomas L. Adams			FOSTER, JIMMY G	
120 Eagle Rock Avenue				
P.O. Box 340			ART UNIT	PAPER NUMBER
East Hanover, NJ 07936			3728	

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/080,904	AWAD, HASSAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jimmy G Foster	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 04 October 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,2,4,5,7 and 9-19 is/are pending in the application.  
4a) Of the above claim(s) 5 and 15-18 is/are withdrawn from consideration.

5)  Claim(s) 19 is/are allowed.

6)  Claim(s) 1,2,4,7 and 9-14 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

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1) This application contains claims 5 and 15-18 are drawn to an invention nonelected with traverse in Paper No. 5. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

2) Claim 11 is finally rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 indefinitely doubly recites an opening already introduced in claim 1 (from which claim 11 depends), making it unclear how many openings are being called for by claim 11.

3) Claim 19 is allowable.

4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5) Claims 1, 2, 4 and 11-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Stockton (1,614,265). In the reference of Stockton there is provided a holder, including a receptacle defined by the combination of panel portions 17,21,30,31, a shelf defined at panel portion 18, and a back panel defined by panel portion 19. The shelf may be reasonably said to extend back from the front of the opening since the opening is defined by front

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face/panel portion 21 and rear face/panel portion 17. Printed matter is provided on the holder (pg. 2, lines 2-6).

The holder also includes a hollow body defined by the constructed configuration of panel portions 17-20 (see Figs. 1 and 2). A front wall is provided at 21 which extends upwardly and outwardly from the hollow body, as indicated in Figures 1 and 2. One of the sides/faces 19 of the hollow body is made with a gentle slope backward so as to make the holder of Stockton more stable.

The panel portion/side 17 of the hollow body is shown in Figure 2 to be substantially vertical. The panel portion 17 includes slits at 22 and 25 which accept lateral extensions 11. As shown in Figure 2, the portion of the panel portion 17 which is adjacent the slit 25 will define a face of the hollow body and will be slanted inwardly from the top end of the slit. Also, there will be an inherent slanting of said face from the bottom end of the slit when the slit accepts said lateral extension. From this it is asserted by the examiner that said face will slightly overhang the bottom margin of the front panel 21.

The receptacle is inherently capable of holding razor blades of an appropriate size smaller than the receptacle.

6) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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7) Claim 7 is finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Stockton (1,614,265). Although the printed matter on the holder of Stockton is provided on the back panel 19, providing the printed matter on any other exposed surface of the holder would not have changed the function of the printed matter, which is to inform. It has been held that rearranging parts of an invention involves only routine skill in the art, *In re Japikse*, 86 USPQ 70. Therefore, rearranging the printed matter of panel 19 onto an exposed surface of a different panel, such as panel 17 would have been obvious.

8) Claim 1, 2, 9 and 11 are finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Haswell (4,307,809) in view of Press (1,019,275). In the reference of Haswell there is provided a back panel at 18 and a tilted receptacle at compartment 16 or 17. The back panel includes adhesive backing (col. 4, lines 21-23). The embodiment in Figure 4, also includes a shelf defined by portion 56. This extends from the opening of the tilted receptacle/pocket 61 and may be said to extend from the rear face of the opening, which is defined by the front edge of the surface 56. The embodiment of Figure 4 includes a back panel at flange 50.

The receptacle is inherently capable of holding razor blades of an appropriate size smaller than the receptacle.

The reference of Press at the printed matter shown on back 2, suggests that a holder for items may be provided with a reminder message which will remind a person about a subject. For example, Press uses a reminder message to advertise a church in Roeville. Although the reference of Haswell does not disclose a reminder message on the holder, it would have been obvious in view of Press to have provided such a message on an exterior surface of the

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holder of Haswell for the purpose of reminding one of something, such as by advertising.

9) Claim 1, 10 and 11 are finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Woolnough et al (6,092,673) in view of Press (1,019,275). In the reference of Woolnough there is provided a receptacle defined by elements 13, 17, 19 and 20 and there is a back panel defined by element 36. The back panel includes fastening holes at 37,38. In the configuration shown in Figure 2, the receptacle includes a downwardly converging opening since the forward face is inclined relative to the rear face.

The reference of Woolnough refers to a depression 35 between the bottom of the back panel/wall portion 36 and the rear face/wall 13 (see Figure 3). Accordingly, a shelf is formed by the transition of material between the bottom of the face 13 and the panel 36.

The receptacle is inherently capable of holding razor blades of an appropriate size smaller than the receptacle.

The reference of Press at the printed matter shown on back 2, suggests that a holder for items may be provided with a reminder message which will remind a person about a subject. For example, Press uses a reminder message to advertise a church in Roeville. Although the reference of Woolnough et al does not disclose a reminder message on the holder, it would have been obvious in view of Press to have provided such a message on an exterior surface of the holder of Woolnough et al for the purpose of reminding one of something, such as by advertising.

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10) Applicant's arguments filed on July 9, 2004 have been fully considered but they are not deemed to be persuasive. Intended use is met by capability of the art to perform the intended use. It appears that Applicant is unaware of this. Applicant should consult the MPEP 2114 regarding this well founded legal concept.

Applicant's insistence throughout his remarks that a holder having a larger size than an item cannot inherently receive the item is irrational and therefore unpersuasive. The examiner maintains his position regarding the holders in the applied references being inherently capable of holding razor blades in the manner claimed by Applicant as intended use.

Applicant has argued that each of the references does not teach the holding of razor blades. However, this argument is unsupported by claim limitation since Applicant fails to claim razorblades as structure in the claims. Moreover, regarding Stockton, the law of anticipation (or where references are combined, the law of patentability) does not require that an anticipatory reference teach what the applicant is claiming or has disclosed, but only that the claims "read on" what is disclosed in the reference, i.e., all limitations of the claim are found in the reference. See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 218 USPQ 871 (Fed Cir. 1983). Furthermore, regarding the *functional/intended use* limitations of a claim, it is only necessary that the reference include structure that is capable of performing the *function/intended use* recited, in order to meet such limitations. See In re Mott, 557 F.2d 266, 194 USPQ 305 (CCPA 1977). Ex parte Masham, 2 USPQ2d 1647 (1987).

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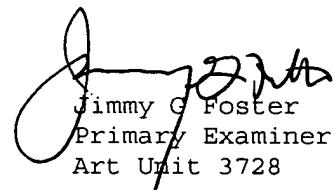
11) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (571) 272-4554. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Jimmy G. Foster  
Primary Examiner  
Art Unit 3728

JGF  
21 December 2004